

Notice of Allowability**Application No.**

10/573,394

Applicant(s)

MALEK ET AL.

Examiner

Nikita Wells

Art Unit

2881

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to **"Amendment/Response" received 11/03/08 and Examiner's Amendment.**
2. ☒ The allowed claim(s) is/are **1-18.**
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some* c) ☐ None of the:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 01/06/09.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

/Nikita Wells/
Primary Examiner, Art Unit 2881
January 6, 2009

DETAILED ACTION

Examiner's Amendment

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Charles B. Katz on December 5, 2008.

The Examiner initiated an Interview with the Applicant in order to make all the independent claims possess allowable material so that the application could be placed in a condition for allowance. Claim 15 is amended as follows:

In claims 15, on line 1: the following is inserted after "mass spectrometry": --comprising a plurality of cycles, each cycle--.

Allowable Subject Matter

2. Claims 1-18 are allowed.
3. The following is an examiner's statement of reasons for allowance:

The Applicant amended independent claims 1, 11, and 15, and presented arguments in favor of allowance of the newly amended claims, according to the "Amendment/Response" received November 3, 2008. With respect to the newly amended independent claims, the Applicant demonstrated to the Examiner's satisfaction that the 35 U.S.C. 102(e) and 35 U.S.C. 103(a) rejections over the references of Guevremont et al. (2006/0038119 A1), in view of Schlereth et al. (5,233,190), are no longer applicable to the Applicant's invention since these

references fail to disclose that the ions are prepared during each of its cycles (during each period of the waveform).

With respect to the independent claims 1, 11, and 15, prior art fails to disclose or make obvious, in combination with other recited features of the claim limitations, a method of mass spectrometry comprising a plurality of cycles, each cycle comprising the steps of preparing ions to be analyzed by a mass spectrometer; and using a detector of the mass spectrometer to collect data from representative of the quantities and masses of the ions prepared during each of its cycles.

The dependent claims 2-10, 12-14, and 16-18, are allowable by virtue of their dependence upon the independent claims 1, 11, and 15, respectively.

Conclusion

4. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nikita Wells whose telephone number is (571) 272-2484. The examiner can normally be reached on 8:30 AM - 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Kim can be reached on (571) 272-2293. The central fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

6. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Nikita Wells/

Primary Examiner, Art Unit 2881

January 6, 2009